IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.6835 OF 2005

Vinod Ramchandra Pitale & Anr. ...Petitioners.
Vs.
The State of Maharashtra & Ors. ...Respondents.

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Mr.S. M. Bhandari with Ms.Suman Jain for the Petitioners.
Mr. V. P. Malvankar, AGP for Respondent Nos.1 and 2.
Mr. G.W. Mattos, AGP for Respondent No.3.

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CORAM : F.I. REBELLO, J. AND
DR.D.Y.CHANDRACHUD, J.

February 8, 2006.

P.C.

Rule. Heard forthwith.

The Petitioners, who are all degree holders, were promoted to the posts of the Executive Engineers by an order dated 27th September 2000. From the material on record, it appears that they were appointed against the quota for direct recruits. In the establishment of Respondent No.3 in so far as Executive Engineers are concerned, the quota for the posts of Executive Engineers is to be filled in by 40% direct recruitment and 60% by promotion. In so far as the quota for promotion is concerned, 25% of the posts are to be filled in by Deputy Engineers who are direct recruits ; 25% of the posts are to be filled

in by promottee Deputy Engineers who are graduates; 10% posts are to be filled in by promottee Deputy Engineers who are diploma holders.

It appears that Respondent No.3, after the Petitioners were appointed, moved Respondent No.1 for relaxing the quota rule. The State Government did not agree to the same.

In the meantime, Respondent No.3 by orders dated 10th September 2004, 14th December 2004 and 3rd January 2005 have issued promotion orders in favour of other Deputy Engineers. These promotions are also against the quota for direct recruits.

Based on the directions issued by Respondent No.1, Respondent No.3 have sought to revert the Petitioners, pursuant to which, they have approached this Court. When the matter was moved before this Court, an interim order was granted on 26th October 2005.

We have heard the learned counsel for the parties. The position in law is settled. The Petitioners cannot claim against the

quota for direct recruits. However, in so far as the temporary appointments against the posts of direct recruits if the Respondents, in the matter of exigency of service, have made promotions, and if any person is to be reverted, then the principle of juniormost in the Seniority List will have to be applied. In other words, the juniormost in the Seniority List will first have to be reverted and the Petitioners will have to be reverted only after juniors to them are reverted. We are, however, told that no direct recruits have been appointed and consequently, the Petitioners can be continued till such time as direct recruits are appointed.

In the meantime, there are vacancies in the promottee quota against which not only the Petitioners but those others who are appointed by orders dated 10th September 2004, 14th December 2004 and 7th January 2005 can be considered. That, however, would require consideration by DPC for the purposes of selection in terms of the Rules. In the light of that this petition is disposed of by issuing the following directions:

-(i) The Petitioners will not be reverted to the posts of the Deputy Engineers till such time the regular DPC meets and

considers them against vacancies for the promottee quota. It is only in the event that the DPC does not recommend the Petitioners for the posts of Executive Engineers, it will be open to Respondent No.3 to revert the Petitioners to the posts of Deputy Engineers;

-(ii) The DPC to be constituted within three months and to consider the Petitioners against the vacancies as per their seniority and yearwise quota of vacancies which have arisen.

Rule made absolute accordingly. There shall be no order as to costs.

(F.I. Rebello, J.)

(Dr. D.Y. Chandrachud, J.)